

Sponsor: Councilwoman Forbes  
First Reading: 03/01/21  
Second Reading: 03/15/21  
Third Reading: 04/05/21  
Ord. No.: 003-21

**AN ORDINANCE AMENDING THE TOWN CODE OF THE TOWN OF SMYRNA TO  
REQUIRE YARD WASTE TO BE DEPOSITED IN RIGID CONTAINERS AND TO  
INCREASE PENALTIES AND CLARIFY COLLECTION PROCEDURES FOR SOLID  
WASTE COLLECTION VIOLATIONS**

WHEREAS, the Town of Smyrna is authorized pursuant to Section 4.2.25 of the Town Charter to “provide for and preserve the health, peace, safety, cleanliness, ornament, good order and public welfare of the Town and its inhabitants”;

WHEREAS, the Town Council has adopted regulations pertaining to the disposal of yard waste; and

WHEREAS, in the opinion of the Town Council, it is in the best interest of the public health, safety, and welfare to revise the town’s yard waste collection requirements to provide for a more efficient yard waste collection procedure.

NOW THEREFORE, BE IT HEREBY ENACTED by the Town Council of the Town of Smyrna, a majority thereof concurring in Council duly met, that Chapter 54 (Solid Waste), Article I (Collection and Disposal) be and hereby is amended as follows:

**Section 1.** Amend Division 1 (Generally) by making insertions as shown by underline and deletions as shown by strikethrough as follows:

Sec. 54-2. - Penalties.

Any person violating any provision of this article shall, ~~upon conviction thereof before any court of competent jurisdiction,~~ be subject to a fine civil penalty of not less than ~~\$10.00~~ \$25.00 nor more than ~~\$25.00~~ \$100.00, plus costs. Citations may be issued for violations. This section shall be subject to the provisions of section 1-12, commonly known and referred to as the town mail-in fine ordinance. Citations issued for violations of this Chapter 54 shall include the right to appeal the citation to the Town Council by filing a written appeal within 15 days of the date of the citation. Thirty days following the citation date, or if a citation is appealed, thirty days following any decision rendered by the Town Council sustaining the citation, the unpaid penalty may be added to the tax bill of the property that was the subject of the violation, as such additions are authorized by 25 Del. C. § 2901.

**Section 2.** Amend Division 2 (Single-family dwellings, multifamily dwellings with fewer than ten units under one ownership at one location and certain commercial units) by making insertions as shown by underline and deletions as shown by strikethrough as follows:

Sec. 54-27. - Collection of organic refuse, non-organic refuse, and ashes.

\* \* \*

- (f) *Yard waste.* No person shall place yard waste in ~~rigid containers, rigid~~ containers used or designated for recyclables or organic or non-organic refuse, heavy duty plastic bags, or any other container ~~used to dispose of items to be collected by the town collection contract except as otherwise provided~~ except those authorized in section 54-29.

**Section 3.** Amend Division 2 (Single-family dwellings, multifamily dwellings with fewer than ten units under one ownership at one location and certain commercial units) by making insertions as shown by underline and deletions as shown by strikethrough as follows:

Sec. 54-28. - Collection of recyclables.

- (a) Each individual pickup location shall have at least one rigid container that is used strictly for recyclables. The maximum size of the rigid container for recyclables shall be 96 gallons. ~~Cardboard boxes may be stacked for collection next to rigid containers as long as they are broken down and secured so as to prevent their scattering by wind or other means.~~

**Section 4.** Amend Division 2 (Single-family dwellings, multifamily dwellings with fewer than ten units under one ownership at one location and certain commercial units) by making insertions as shown by underline and deletions as shown by strikethrough as follows:

Sec. 54-29. - Deposit of yard waste on streets, curbs, sidewalks or alleys.

- (a) *Authorized yard waste disposal methods.* ~~All yard waste, with the exception of branches, twigs, tree limbs and prunings, shall be~~ Except as otherwise indicated in subsection (c) herein pertaining to leaves, all yard waste shall be placed in a rigid container not to exceed 96-gallons in volume. The rigid container must include a metal lift bar to permit semi-automated collection methods. bagged in heavy duty plastic bags of sufficient strength to carry their contents without ripping or rupturing and be deposited Yard waste shall be separate from all other organic refuse, non-organic refuse, ashes, and recyclables at the appropriate street or alley line for collection. Each individual bag of yard waste shall not exceed 40 pounds in weight. Branches, twigs, tree limbs and prunings Branches shall not exceed three inches (3") in diameter and shall be cut to fit within the rigid container. Yard waste not placed within the rigid container will not be collected. All rigid containers used for yard waste must have a lid, and any rigid containers filled with excessive amounts of yard waste so as to prevent the closing of the lid will not be collected. ~~may be either tied together in bundles or placed in heavy duty plastic bags or cardboard boxes, which shall not exceed 40 pounds in weight and four feet in length, and shall be deposited separate from other organic refuse, non-organic refuse, ashes, and recyclables at the appropriate street or alley line for collection.~~
- (b) *Prohibited conduct.* It shall be unlawful for any person to do the following:
- (1) Dispose of or mix yard waste with any non-organic refuse, organic refuse, or recyclables for regular trash collection or to dispose of yard waste in any dumpster or location not specified for such purpose; or

- (2) Deposit, place, discard, drop or in any other manner scatter any yard waste in or upon the streets, curbs, sidewalks or alleys of the town except as otherwise indicated in this section.
- (c) *Collection of unbagged leaves.* Unbagged leaves may be deposited in the streets of the town, near the curb, for pickup beginning ~~September 15~~ September 1 through December 31 of each year. Leaves must be ~~bagged~~ placed in approved rigid containers for collection at all times beginning January 1 through ~~September 14~~ August 31 of each year.

**Section 5. Severability.** The provisions of this Ordinance shall be severable. If any provisions of this Ordinance are found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Ordinance shall remain valid, unless the court finds that the valid provisions of this Ordinance are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that it cannot be presumed that the Town Council would have enacted the remaining valid provisions without the unconstitutional or void provision; or unless the court finds that the remaining valid provisions, standing alone, are incomplete and incapable of being executed in accordance with Town Council's intent.

**Section 6. Effective Date.** This Ordinance shall become effective immediately upon its adoption by the Town Council.

---

## SYNOPSIS

This ordinance increases the minimum and maximum penalties to \$25 and \$100, respectively, and authorizes unpaid penalties to added to property tax bills. This ordinance clarifies the types of containers that may be used for yard waste and leaves. Lastly, this ordinance changes violations from criminal to civil violations and authorizes the violations to be appealed to the Town Council.

---

This will certify that this is a true and correct copy of the Ordinance duly adopted by the Town Council of the Town of Smyrna at its regular Council meeting on \_\_\_\_\_, 2021.

ATTEST:

\_\_\_\_\_  
Council Secretary

\_\_\_\_\_  
Mayor

This shall certify that the title and synopsis of this Ordinance was published in the "Smyrna/Clayton Sun Times" on \_\_\_\_\_, 2021 and posted at the Town Hall on \_\_\_\_\_, 2021.

So Certifies:

---

Town Clerk